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DATE: April 29, 2002

TO: WDA Executive Directors, WDB Chairs and CLEOs

FROM: Mary C. Rowin, Deputy Administrator

SUBJECT: **WIA Policy Update 02-03 – Revising Local Negotiated Levels of WIA Performance**

Purpose

This WIA policy update provides instructions to WDBs on requesting revisions to WIA performance levels negotiated for Program Year 01 and/or Program Year 02.

References

WIA, Section 136; 20 CRF part 666; 20 CFR 661.355; DOL Training and Employment Guidance Letter No. 11-01; DWE Workforce Programs Guide, Part 2, Section 1(C)(5); and WIA Modification Policy (WIA Policy Update dated February 6, 2002).

Background

Under WIA Title I, subtitle B, states must negotiate expected levels of performance with the Department of Labor for adults, dislocated worker and youth programs. In turn each local Workforce Development Board and Chief Elected Official in a state must negotiate with the Governor and reach agreement on local levels of WIA performance. The local performance levels must be based on the state-negotiated levels of performance. These state and local negotiated performance levels become part of state and local WIA five-year plans, respectively. State and local performance levels are negotiated in two phases. The first phase covers the first three years of WIA state and local five year plans – PY 00 through PY 02. The second negotiation phase covers the final two years of WIA plans, PY 03 and PY 04.

DWS negotiated state and local performance levels in PY 99 for PY 00 through PY 02. The baseline performance levels were derived from past (PY 97) JTPA and UI Wage Record data or from the seven state (regional) average where past performance data for WIA measures were not available. Consistent with WIA's requirements for continuous improvement, state and local performance levels incorporated higher levels of performance in years following the base year (PY 00) for each performance measure.

Under current Wisconsin WIA performance and plan modification policies, negotiations of performance levels for the final two years of the WIA five year plan are planned for PY 03. However, the U.S. Department of Labor, Employment and Training Administration (USDOL/ETA) recently issued guidance on how states could request revisions to current state

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negotiated performance levels. In addition, the possibility of revising current negotiated performance levels has been raised by some WDBs and discussed at meetings of WAJTE and CWI Workforce System Coordination and Oversight Committee.

DWS Policy

WDBs may submit a request to revise one or more negotiated performance levels for the current program year (PY01) and/or the next (PY 02) program year. WDB requests must be received by DWS no later than 12:00 p.m. on Monday, May 20, 2002. WDB requests must be complete and address, and provide justification related to, the same issues required by USDOL/ETA for state revision requests. DWS will review WDB requests according to the same guidelines established for USDOL/ETA regional office review of state requests.

DWS will also assess the impact of requested local changes on state negotiated performance levels. If WDB requests for revision in local performance levels result in a need for the state to submit a request for revision to state performance levels, DWS will submit its request to USDOL/ETA using WDB information to the extent possible to justify the state request. DWS will not take final action on WDB requests until it is notified and assesses implications of decisions on the state request by the USDOL/ETA Regional Office.

DWS will report to the CWI on the status of WDB requests for revisions to performance levels at its meeting on May 21, 2002. DWS will inform WDBs of the status of their request and/or the need for a state revision request to USDOL/ETA by Friday, June 21, 2002. In the event that USDOL/ETA action on the state's request results in the need for changes to WDB requests, DWS will inform WDBs of the process and related timetables for these changes as soon as possible following notification to the state by USDOL/ETA.

When DWS notifies WDBs of final action on their performance revision request, it will also inform WDBs of process/timetable changes to the modification policy should they be needed to address approved performance level revisions. WDBs must incorporate performance level revisions approved by DWS into its local WIA plan and ensure public review/comment of this modification consistent with DWS WIA modification policy, dated February 6, 2002.

Performance Level Revision Request Content

The content of a WDB request to revise performance levels must address and follow the same content requirements as USDOL/ETA requires for states. Requirements for states to revise performance levels are detailed in TEGL 11-01 and summarized in Attachment A of this policy. In brief, WDB written requests must:

- Detail the specific revision(s) requested (e.g., measures and performance levels)
- Address and document three conditions justifying the request as outlined below:
 - ❑ unanticipated circumstances. Examples include limitations in baseline data used to project the original performance levels; changes in participant characteristics, economic conditions, or federal funding levels; disasters; or legal or legislative actions that raise participant outcome expectations (e.g. a higher standard for high school graduation).
 - ❑ the unanticipated circumstances affect one or more factors that were used to project original performance levels, and
 - ❑ the variations from negotiated standards are linked to changes in the factors.

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- To ensure sufficient information to document and satisfy the three conditions above, provide the following information:
 - ❑ describe the problem or situation and who (population group) is affected by it;
 - ❑ identify the performance measure(s) and program year(s) affected by the problem;
 - ❑ provide evidence of the change in the factors that were used to arrive at the original performance levels, the forecasted factor values and the estimated impact on performance outcomes;
 - ❑ describe the approach used to determine the revised performance levels, including methodology;
 - ❑ describe the data source(s) used to demonstrate change in the factors and a description of the data source(s) used to forecast values for the factors; and
 - ❑ include the computations used to arrive at the revised performance levels, and compare them to the originally negotiated levels.

Questions and Technical Assistance

For detailed information about the information that should be included in a request to revise performance levels, WDBs should review USDOL/ETA TEGL 11-01 and its associated attachments, as well as Attachment A of this policy. The complete USDOL/ETA TEGL and related attachments are available at the following web sites.

<http://wdr.doleta.gov/directives/attach/TEGL11-01.pdf>
<http://wdr.doleta.gov/directives/attach/TEGL11-01Attach1.pdf>
<http://wdr.doleta.gov/directives/attach/TEGL11-01Attach2.pdf>

For additional information and technical assistance, contact Nancy Bryan, DWD/DWS, Bureau of Workforce Program, at 608-266-0249 or email bryanna@dwd.state.wi.us.

Submission Deadline

All requests for revision to local performance levels must be submitted and received by DWS no later than 12:00 noon on Monday, May 20, 2002. Late submissions will not be considered. A WDB should submit three hard copies and an electronic copy of the request. An electronic submission by the deadline (followed by hard copy submission) will be accepted and considered as meeting the deadline.

Requests should be submitted to:

Nancy Bryan, DWD/DWS
PO Box 7972,
Madison WI 53707-7972

Send electronic version to bryanna@dwd.state.wi.us.

Attachment A – Renegotiating WIA Performance Standards

ATTACHMENT A

RENEGOTIATING WIA PERFORMANCE STANDARDS

Revising WIA State Negotiated Levels of Performance
DOL Guidance and Related Issues to Consider

Guidance Summary

1. US DOL/ETA --TEGL 11-01 describes process the State uses to work with DOL to revise state performance goals. It includes further guidance on conditions that would necessitate revisions and using a weighted average approach to revise the levels.
2. Adjustments can be requested when there are changes in economic conditions, changes in participant characteristics, and changes in service delivery design.
3. The Governor may request a revision to one or more negotiated performance levels any time prior to the end of the program year for which the levels apply. DOL will NOT consider requests to revise PY 2000 performance levels.
4. The request must meet 3 conditions:
 - the circumstances must be unanticipated;
 - the unanticipated circumstances must affect one or more of the factors that were used to project the original levels; and
 - the variations from the negotiated levels identified in the request must be linked to the changes in the factors.
5. The negotiations occur between the state and ETA Regional Office staff. ETA issues its decision within 30 working days after receipt of the written request. All approved revisions must be incorporated into the State Plan through a plan modification. A change of this type is required to go through public review and comment.
6. The TEGL includes a sample of a revision request, to give states an idea of how their proposal should be crafted.
7. The state must:
 - describe the problem or situation and who (population group) is affected by it;
 - identify the performance measure(s) and program year affected by the problem;
 - provide evidence of the change in the factors that were used to arrive at the original performance levels, the forecasted factor values and the estimated impact on performance outcomes;
 - describe the approach used to determine the revised performance levels, including methodology;
 - describe the data source(s) used to demonstrate change in the factors and a description of the data source(s) used to forecast values for the factors; and
 - include the computations used to arrive at the revised performance levels.

What are “Unanticipated Circumstances”?

The examples DOL has provided include:

- Limitations in the baseline data used to project the original performance levels for PY 2001 and 2002

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- Changes in program participant characteristics that weren't considered in the earlier negotiations
- Changes in economic conditions (plant closings, layoffs)
- Disasters (floods, earthquakes, acts of war, tornadoes)
- Significant changes in federal funds allotted to the state to implement WIA
- Legal or legislative actions that increase the quality of participant outcomes and thus increase the level of effort needed by participants to attain these outcomes. (DOL provides this example: a new state law requires a higher standard for high school graduation. This would increase the standard needed to attain a diploma or equivalent and could decrease the numbers of graduates.)

How do we demonstrate a change in the factor(s)?

We have to show that the circumstances identified above actually affected factors used in the original performance level calculations. Factors listed by DOL include an annual unemployment rate of 5.4%, a baseline adult entered employment rate of 72%, or 53% of the adult participants demonstrating one or more significant barriers to employment. DOL adds a reminder that an “unanticipated circumstance” may affect performance measures over multiple program years.

How do we show the link between the unanticipated circumstances and the projected change in our performance levels?

- Describe the method(s) used to estimate the impact on the measures. These methods must adhere to widely accepted statistical practices; demonstrate a cause and effect relationship between the factor(s) and the performance levels; be fair, objective and quantifiable; and support state efforts in continuous improvement of workforce investment activities. DOL has suggested using either a multiple regression approach, or a weighted average approach.
- The data source(s) must be developed by a federal, state, or local government agency; or some other reputable source such as a state's MIS unit, a university or a private research foundation.
- Factors used to determine revisions include differences in economic conditions, participant characteristics at the time of registration, and services to be provided to participants.
- The revised levels must also reflect what is ideally attainable, given the change in environment and any needed changes to service delivery.

So what do we have to do?

In the simplest terms, here are the questions that have to be answered when requesting revisions to our performance levels:

- What is the unanticipated circumstance?
- What are the changes in the factors used in formulating the original state negotiated levels?
- Who are the participants affected by these changes?
- What is the estimated performance impact of the changes on the participants?
- What changes can the state make in service design and delivery to address the impact of the unanticipated circumstance? What program changes does the state propose?

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- Given the changes in factors, what would performance levels be with and without the proposed changes?
- How will the state deal with the balance of exiters not affected by the unanticipated circumstance? Is this level going to be different than the originally negotiated performance levels? Why? Is the reason reasonable and appropriate?
- What level of performance is the state proposing as appropriate? Why?
- What level of performance does the ETA Regional Office cite as ideally attainable? Why? (ETA addresses this, not the state agency.)

What is the “Weighted Average Approach”?

In this model, we would examine performance levels by the population or target group we believe is affected by the unanticipated circumstances, compared to the balance of exiters included in the measure’s calculation. These adjusted factors would be used in revising the projected levels.

If all exiters are affected by the unanticipated circumstances, we would not use the weighted average approach. Instead, ETA Regional Office and State staff would have to reach an agreement on a level for all exiters to be used in the calculation(s).

What do we do now?

- The TEGL is silent on revising WDB performance levels. This suggests that the state can adopt a similar procedure for working with the WDBs, if the need exists.
- Any changes in performance levels require a plan modification. If the WDBs revise their performance levels, without affecting the state/DOL negotiated performance levels, then the state may not have to modify the State Plan. Conversely, if local negotiations changed our ability to attain the goals negotiated with DOL, we’d have to request a revision to the state performance levels.
- In PY2000, Wisconsin met or exceeded all of its negotiated performance goals. It is not likely that we’d be able to request revisions to the statewide goals for PY01.
- If any WDB were to request a revision, it may affect other WDB’s negotiated performance levels. Thus, if the state lowers the bar for one WDB, it may have to raise it for another WDB to assure that the state can still meet or exceed its goals.

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